

EXHIBIT LL

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 MDL No. 1456

4 Master File No. 01-CV-12257-PBS

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6 IN RE: PHARMACEUTICAL INDUSTRY
7 AVERAGE WHOLESALE PRICE LITIGATION

8 _____
9 THIS DOCUMENT RELATES TO:

10 United States of America ex rel.
11 Ven-A-Care of the Florida Keys, Inc.,
12 et al., v. Dey, Inc., et al.,
13 Civil Action No. 05-11084-PBS

14 - - - - -x

15 (Cross caption follows on next page.)

16 July 23, 2008

17 9:01 a.m.

18
19 VOLUME IV

20
21 Continued Videotaped Deposition

22 of JOHN LOCKWOOD, M.D.

1 time; but I think that link to home health
2 providers did create interest for us in
3 inhalation drugs because we felt that was an
4 issue that was occurring.

5 Q. Can you walk me through in particular
6 how your investigation of Roxane drugs
7 progressed? In other words give me some details
8 in terms of once you noticed that inhalation
9 drugs were involved in these split fee
10 arrangements and that utilization was going up,
11 what did you do to specifically target Roxane?

12 A. Um, I think we -- we saw the prices in
13 the marketplace going down over time and we saw
14 the AWP and/or WAC prices were, as I recall,
15 fairly stable, I don't recall them going up right
16 now, although I don't know for sure. I don't
17 think they went up -- my recollection is they
18 were fairly stable -- but the prices were eroding
19 in the marketplace and at the same time we saw
20 utilization of the drugs sky-rocketing in
21 Medicare and Medicaid well over their utilization
22 when the brand, only the brand was available.

1 Q. So what did you do in terms of
2 investigating Roxane? Did you look at the prices
3 that were in the marketplace?

4 A. Yes, we did, we looked at the prices
5 available in the marketplace, um, we had a
6 variety of sources to look at pricing for Roxane
7 and we had prices that actually went back, as I
8 recall, in the '94-95 time frame on some of
9 Roxane's drugs; but we looked at essentially the
10 evolving marketplace for ipratropium and I would
11 say that the wholesalers, certainly the generic
12 distributors, often sent information out on sort
13 of all of the available inhalation drugs
14 together, in many circumstances, so that that may
15 also have played some role in the whole, the
16 whole thing, meaning that as we were looking at
17 Albuterol we started getting information on
18 ipratropium as well.

19 Q. I want to take a step back to something
20 you said a moment ago, which was that you had
21 several sources of pricing for Roxane drugs. I
22 want to focus just in particular on ipratropium

1 bromide since that's the drug that was named in
2 the Ven-A-Care Complaints up until 2005.

3 A. Um hum.

4 Q. And my question is what were the
5 sources for Ven-A-Care's prices for Roxane's
6 ipratropium bromide?

7 A. I would say they were very similar of
8 the sources that we had for Albuterol. There
9 were the generic distributors and the generics --
10 J.J. Balan and I think there are others -- were
11 marketing those drugs, sometimes telemarketing
12 inhalation drugs, I don't -- I don't recall
13 specifically if they were doing Roxane's drug on
14 that, but those wholesalers.

15 We also had a McKesson catalog that
16 showed the McKesson list price for ipratropium
17 and how that changed over the years and, as I
18 recall, we also had information from Greater New
19 York Hospital Association, which became
20 Innovatix, which was a GPO. Later on we had
21 information from Servall, the GPO Servall.
22 Florida Infusion may have carried that drug, I'm

1 not sure, that was also a distributor type
2 wholesaler.

3 So we had a number of sources that
4 involved pricing directly from wholesalers, both
5 distributor type wholesalers and full line
6 wholesalers as well as GPO prices.

7 Q. What's the distinction you draw between
8 distributor type wholesalers and full line
9 wholesalers?

10 A. You know, I don't draw a lot of
11 distinctions. They both have the same wholesale
12 license, as far as I know, in most states; but in
13 many circumstances, but not all circumstances,
14 distributors tend to buy low and sell higher, and
15 they don't do chargebacks; whereas many of the
16 full line wholesalers are in the business of
17 buying high and selling lower, which involves the
18 whole chargeback mechanism, if -- if there is a
19 contract involved.

20 So, um, and it's interesting that if
21 you buy at the list price from McKesson, the list
22 price at McKesson is many times much, much higher